

IN THE INCOME TAX APPELLATE TRIBUNAL  
DELHI BENCH : SMC : NEW DELHI

BEFORE SHRI R.K. PANDA, ACCOUNTANT MEMBER

ITA No.3820/Del/2018  
Assessment Year: 2014-15

Blazing Trail Technologies India Pvt. Vs. ITO,  
Ltd., Ward-5(1),  
53, DG-III, Vikas Puri, New Delhi.  
New Delhi.

PAN: AAFCB3876K

(Appellant)

(Respondent)

Assessee by : Shri Karanjot Singh, CA  
Revenue by : Shri Om Parkash, Sr. DR  
Date of Hearing : 31.01.2022  
Date of Pronouncement : 18.02.2022

ORDER

This appeal filed by the assessee is directed against the order dated 5<sup>th</sup> January, 2018 of the CIT(A)-2, New Delhi, relating to Assessment Year 2014-15.

2. Although a number of grounds have been raised by the assessee, however, these all relate to the order of the CIT(A) in confirming the order of the AO determining the taxable income of the assessee at Rs.21,43,110/-.

3. This appeal was earlier dismissed by the Tribunal vide order dated 10<sup>th</sup> April, 2019. Subsequently, the Tribunal, vide MA No.642/Del/2019, order dated 14<sup>th</sup> October, 2019, recalled its earlier order. Hence, this is a recalled matter.

4. Facts of the case, in brief, are that the assessee is a company and is engaged in providing information technology related services. It filed its return of income on 30.11.2014 declaring an amount of Rs.7,42,003/-. The case was selected for scrutiny under CASS. During the course of assessment proceedings, the AO asked the assessee to file certain details. However, despite a number of opportunities granted by the AO, the assessee failed to file the requisite details for which the AO completed the assessment determining the total income of the assessee at Rs.21,43,110/- wherein he disallowed expenses of Rs.6,85,115/- being 40% of the expenses claimed. He also made addition of Rs.22 lakhs being share capital and share premium received by the assessee on account of failure of the assessee to substantiate with evidence to his satisfaction regarding the identity and credit worthiness of the share applicants and genuineness of the transaction.

5. Before the CIT(A), the assessee filed certain additional evidences. However, the Id.CIT(A) did not accept the additional evidences and confirmed the additions made by the AO.

6. Aggrieved with such order of the CIT(A), the assessee is in appeal before the Tribunal.

7. The Id. Counsel for the assessee, at the outset, submitted that due to shifting of the directors from Delhi to Bombay, the notices could not be served on the assessee properly for which there was no proper compliance. He submitted that although the assessee has filed various evidences before the CIT(A) in the shape of additional evidences, however, the Id.CIT(A) did not accept the same and dismissed the appeal filed by the assessee. Although the Id.CIT(A) has passed a speaking order, however, he has not considered the various evidences filed before him in the shape of additional evidences. He submitted that in the interest of justice the assessee should be given an opportunity to substantiate its case.

8. The Id. DR, on the other hand, heavily relied on the orders of the AO and the CIT(A). He submitted that despite a number of opportunities granted, the assessee failed to avail of the same, therefore, the order of the Id.CIT(A) being in consonance with law should be upheld and the grounds raised by the assessee should be dismissed.

9. I have heard the rival arguments made by both the sides, perused the orders of the AO and the CIT(A) and the paper book filed on behalf of the assessee. I have also considered the various decisions cited before me. I find, because of the non-cooperative attitude of the assessee in filing the requisite details, the AO disallowed 40% of the total expenses of Rs.17,12,789/- claimed in the Profit & Loss Account. Similarly, due to non-furnishing of requisite details to substantiate

the identity and credit worthiness of the share applicants and the genuineness of the transaction, the AO made addition of Rs.22 lakhs which the assessee has introduced by way of subscription to capital (Rs.2 lakhs) and share premium (Rs.20 lakhs). I find, the ld. CIT(A) upheld the action of the AO on the ground that the submissions did not convince him properly and the assessee failed to substantiate with evidence to the satisfaction of the AO regarding the identity and credit worthiness of the share applicants and genuineness of the transaction. It is the submission of the ld. Counsel for the assessee that since the directors have shifted from Delhi to Bombay, the notices were not properly served for which the assessee could not represent the case properly. It is also his submission that given an opportunity, the assessee is in a position to substantiate with evidence to the satisfaction of the AO regarding the identity and credit worthiness of the share applicants and the genuineness of the transaction. Further, the assessee is also in a position to substantiate the various expenses claimed in the Profit & Loss Account. Considering the totality of the facts of the case and in the interest of justice, I deem it proper to restore the issue to the file of the AO with a direction to grant one more opportunity to the assessee to substantiate his case and decide the issue as per fact and law. The assessee is also hereby directed to appear before the AO without seeking any adjournment under any pretext and substantiate its case failing which the AO is at liberty to pass appropriate order as per law. I hold and direct accordingly. The grounds raised by the assessee are accordingly allowed for statistical purpose.

10. In the result, the appeal filed by the assessee is allowed for statistical purposes.

The decision was pronounced in the open court on 18.02.2022.

Sd/-

(R.K. PANDA)  
ACCOUNTANT MEMBER

Dated: 18<sup>th</sup> February, 2022

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1. Appellant
2. Respondent
3. CIT
4. CIT(A)
5. DR

Asstt. Registrar, ITAT, New Delhi